

State of New Hampshire Banking Department

In re the Matter of:) Case No.: 08-357
)
State of New Hampshire Banking)
)
Department,) Order to Show Cause
)
Petitioner,) and
)
and) Cease and Desist Order
)
Intercontinental Capital Group, Inc.,)
)
and Richard Steinberg,)
)
Respondents)

NOTICE OF ORDER

This Order commences an adjudicative proceeding under the provisions of RSA 397-A:18, RSA 541-A, BAN 200 and JUS 800.

LEGAL AUTHORITY AND JURISDICTION

Pursuant to RSA 397-A:18, the Banking Department of the State of New Hampshire (hereinafter the "Department") has the authority to issue a complaint setting forth charges whenever the Department is of the opinion that the licensee or person over whom the Department has jurisdiction is violating or has violated any provision of RSA Chapter 397-A, rule or order thereunder.

Pursuant to RSA 397-A:18 II, the Banking Department of the State of New Hampshire (hereinafter the "Department") has the authority to issue and cause to be served an order requiring any person engaged in any act or practice constituting a violation of RSA 397-A or any rule or order thereunder, to cease and desist from violations of RSA 397-A.

1 Pursuant to RSA 397-A:20, the Commissioner may issue, amend, or rescind
2 such orders as are reasonably necessary to comply with the provisions of the
3 Chapter.

4 Pursuant to RSA 397-A:21, the Commissioner has the authority to
5 suspend, revoke or deny any license and to impose administrative penalties of
6 up to \$2,500.00 for each violation of New Hampshire banking law and rules.

7 **NOTICE OF RIGHT TO REQUEST A HEARING**

8 The above named Respondents have the right to request a hearing on this
9 Order to Show Cause and Cease and Desist Order, as well as the right to be
10 represented by counsel at each Respondent's own expense. All hearings shall
11 comply with RSA 541-A. Any such request for a hearing shall be in writing, and
12 signed by the Respondent or the duly authorized agent of the above named
13 Respondent, and shall be delivered either by hand or certified mail, return
14 receipt requested, to the Banking Department, State of New Hampshire, 53
15 Regional Drive, Suite 200, Concord, NH 03301. Such hearings will be scheduled
16 within 10 days of the request. If the Respondent fails to appear at the
17 hearing after being duly notified, such person shall be deemed in default, and
18 the proceeding may be determined against the Respondents upon consideration of
19 the Order to Show Cause and Cease and Desist Order, the allegations of which
20 may be deemed to be true.

21 If any of the above named Respondents fails to request a hearing within
22 30 calendar days of receipt of such order or reach formal settlement with the
23 Department within that time frame, then such person shall likewise be deemed in
24 default, and the orders shall, on the thirty-first day, become permanent, and
25 shall remain in full force and effect until and unless later modified or
vacated by the commissioner, for good cause shown.

STATEMENT OF ALLEGATIONS, APPLICABLE LAWS AND REQUEST FOR RELIEF

The Staff Petition dated August 18, 2008 (a copy of which is attached
hereto) is incorporated by reference hereto.

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WHEREAS, finding that the allegations contained in the Staff Petition, if proved true and correct, form the legal basis of the relief requested,

1. Administrative penalties of \$5,000.00 should not be imposed against each of the above named Respondents; and

It is hereby ORDERED that:

4. The annual report must be properly completed and submitted to the Department; and

SIGNED,

/ S /

PETER C. HILDRETH
BANK COMMISSIONER

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6. Respondent Richard Steinberg (hereinafter "Respondent Steinberg")
is, or was at all relevant times, President of Respondent ICG.

7. Respondent ICG was licensed as a Mortgage Banker prior to the expiration of its license in 2007.

8. To date the invoice for \$500.00 remains unpaid.

9. Respondent ICG was subject to an "Order by Agreement", Docket #07-149, executed on June 29, 2007 regarding a previous failure to submit Respondent ICG's financial statement in a timely manner.

10. Respondent ICG, in the June 29, 2007 Order by Agreement, agreed that "any subsequent violations of law pertaining to its Mortgage Banker/Broker activities shall be grounds for further action being taken against it."

11. Since Respondent ICG wished to "avoid formal license action" in the June 29, 2007 Order by Agreement but violated RSA 397-A:13 again (this time for failure to file a timely annual report), Respondent ICG should be held accountable for a violation of the June 29, 2007 Order by Agreement.

II. ISSUES OF LAW

The staff of the Department, alleges the following issues of law:

1. The Department realleges the above stated facts in paragraphs 1 through 11.

2. The Department has jurisdiction over the licensing and regulation of persons engaged in mortgage banker or broker activities pursuant to NH RSA 397-A:2 and RSA 397-A:3.

- 1 3. RSA 397-A:13, I-a provides that a person who surrenders,
2 withdraws, or does not renew a license shall file the annual
3 report as required in paragraph 1 of RSA 397-A:13,
4 notwithstanding the fact that he or she is not licensed on the
5 date that the report is due.
- 6 4. RSA 397-A:13, IV provides that any mortgage banker or broker
7 failing to file the annual report within the time prescribed may
8 be required to pay to the Department a penalty of \$25.00 per
9 calendar day for each day the annual report is overdue, for a
10 maximum of \$2,500.00.
- 11 5. RSA 397-A:18, I provides that the Department may issue a complaint
12 setting forth charges whenever the Department is of the opinion
13 that the licensee or person over whom the Department has
14 jurisdiction, has violated any provision of RSA 397-A or orders
15 thereunder.
- 16 6. RSA 397-A:21 IV provides that any person who, either knowingly or
17 negligently, violates any provision of Chapter 397-A, may upon
18 hearing, and in addition to any other penalty provided for by
19 law, be subject to an administrative fine not to exceed \$2,500,
20 or both. Each of the acts specified shall constitute a separate
21 violation, and such administrative action or fine may be imposed
22 in addition to any criminal penalties or civil liabilities
23 imposed by New Hampshire Banking laws.
- 24 7. RSA 397-A:21 V provides that every person who directly or
25 indirectly controls a person liable under this section, every
 partner, principal executive officer or director of such person,

every person occupying a similar status or performing a similar function, every employee of such person who materially aids in the act constituting the violation, and every licensee or person acting as a common law agent who materially aids in the acts constituting the violation, either knowingly or negligently, may, upon notice and opportunity for hearing, and in addition to any other penalty provided for by law, be subject to suspension, revocation, or denial of any registration or license, including the forfeiture of any application fee, or the imposition of an administrative fine not to exceed \$2,500, or both. Each of the acts specified shall constitute a separate violation, and such administrative action or fine may be imposed in addition to any criminal or civil penalties imposed.

RELIEF REQUESTED

The staff of the Department requests the Commissioner take the following Action:

1. Find as fact the allegations contained in section I of this Staff Petition;
2. Make conclusions of law relative to the allegations contained in section II of the this petition;
3. Pursuant to RSA 397-A:18, order Respondents to immediately Cease and Desist from violations of this chapter;
4. Assess fines and administrative penalties in accordance with RSA 397-A:21, for violations of Chapter 397-A, in the number and amount equal to the violations set forth in section II of this Staff Petition; and
5. Take such other administrative and legal actions as necessary for

1 enforcement of the New Hampshire Banking Laws, the protection of New
2 Hampshire citizens, and to provide other equitable relief.

3 RIGHT TO AMEND

4 The Department reserves the right to amend this Staff Petition and to
5 request that the Commissioner take additional administrative action.
6 Nothing herein shall preclude the Department from bringing additional
7 enforcement action under RSA 397-A or the regulations thereunder.

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10 Respectfully submitted by:

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12 / S /
13 Maryam Torben Desfosses
14 Staff Attorney

August 18, 2008
Date